

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CORBIN J. HOWARD,
Plaintiff,

v.

WELLS FARGO HOME
MORTGAGE fka Norwest
Mortgage, *et al.*,
Defendants.

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Case No. 3:11-cv-116

JUDGE WALTER H. RICE

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #60);
OVERRULING PLAINTIFF'S OBJECTIONS THERETO (DOC. #61);
SUSTAINING DEFENDANT WELLS FARGO BANK, N.A.'S RENEWED
MOTION TO DISMISS COMPLAINT (DOC. #53); DISMISSING
COMPLAINT (DOC. #2) WITH PREJUDICE; OVERRULING AS MOOT
PLAINTIFF'S MOTION TO CONFIRM THE STATUS OF MELINDA JO
SMITH (DOC. #57); JUDGMENT TO ENTER IN FAVOR OF
DEFENDANTS AND AGAINST PLAINTIFF; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Sharon Ovington in her Report and Recommendations, Doc. #60, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing in its entirety.

The Court OVERRULES Plaintiff's Objections to the Report and Recommendations, Doc. #61. Plaintiff admits that he failed to disclose the above-captioned case to the Bankruptcy Court when he filed his Chapter 13 bankruptcy petition; he maintains that this was because the case was closed. However, it

was never closed; it was simply stayed pending the outcome of the foreclosure action in state court. *See* Docs. ##30, 31. Accordingly, he had a duty to disclose its existence. Because he failed to do so, he is judicially estopped from pursuing any of the claims asserted in this action.

In addition, although Plaintiff objects to Magistrate Judge Ovington's other legal conclusions, that Wells Fargo is not a "debt collector" under the FDCPA, that many of his claims are time-barred, and that he has no private right of action against a creditor for violation of the discharge injunction, he fails to explain how they are incorrect.

Plaintiff's request that the Magistrate Judge and the undersigned recuse ourselves because we are "lacking in intelligence" is denied. Although Plaintiff may disagree with the Court's decisions, his disagreement is no basis for recusal.

For the reasons explained by Magistrate Judge Ovington, the Court SUSTAINS Defendant's Renewed Motion to Dismiss, Doc. #53, DISMISSES WITH PREJUDICE Plaintiff's Complaint, Doc. #2, and OVERRULES AS MOOT Plaintiff's Motion to Confirm the Status of Melinda Jo Smith, Doc. #57.

Judgment shall be entered in favor of Defendants and against Plaintiff.¹

¹ Claims against all other Defendants were dismissed with prejudice on August 29, 2011. Doc. #30.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: August 31, 2018



WALTER H. RICE
UNITED STATES DISTRICT JUDGE